

August 16, 2021

Multnomah County, Department of Community Service
Land Use Planning Division
1600 SE 190th Avenue
Portland, OR 97233-5910

Re: 12424 NW Springville Road, Portland, OR 97229
Application to build a single family dwelling in conjunction with farm use

Dear Planner,

Below is a narrative description of the proposed project.

Our family wants to build a new single family home on our farm at 12424 NW Springville Road in Portland. The farm is approximately 84.43 acres and the proposed home location is on the site of a former home on the property.

The purpose of this letter is to support the application to build a single-family dwelling in conjunction with farm use on our farm at 12424 NW Springville Road in Portland. The Multnomah County Code sections referenced in this letter are from the Pre-Filing Meeting Summary Notes (PF-2021-14769).

The complete application form with plans will be submitted digitally to LUP-Submittals@multco.us.

Please let me know if you have any questions.

Thank you,
Scott & Stacy Reed
(914) 391-6995

PROJECT NARRATIVE

Our family wants to build a new single family home on our farm at 12424 NW Springville Road in Portland. The farm is approximately 84.43 acres and the proposed home location is on the site of a former home on the property.

§ 39.1515 CODE COMPLIANCE AND APPLICATIONS.

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Zoning Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Zoning Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or

(2) It is necessary to protect public safety; or

(3) It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Applicant: The property is in full compliance with all applicable provisions of the Multnomah County Zoning Code.

§ 39.2000 DEFINITIONS.

As used in this Chapter, unless the context requires otherwise, the following terms and their derivations shall have the meanings provided below:

Applicant: Understood.

§39.3005- LOTOFRECORD– GENERALLY.

(A) An area of land is a “Lot of Record” if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.

(B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 39.9700. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

(b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:

1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or
2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or
3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or
4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and
5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an “acknowledged unincorporated community” boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.

2. An “acknowledged unincorporated community boundary” is one that has been established pursuant to OAR Chapter 660, Division 22.

Applicant: The property consists of three parcels that are 7.67, 22.27, and 54.49 acres under the same ownership (Property ID# R324339, R324300, R501639). The 7.67 acre parcel is aggregated with the other two parcels because it is less than 19 acres. Together, the three parcels aggregate into one single lot of record.

§ 39.3070 LOT OF RECORD – EXCLUSIVE FARM USE (EFU).

(A) In addition to the standards in MCC 39.3005, for the purposes of the EFU district a Lot of Record is either:

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots:

(a) Which were held under the same ownership on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.

3. Three examples of how parcels and lots shall be aggregated are shown in Figure 1 below with the solid thick line outlining individual Lots of Record:

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g., MUA-20, RR, RC, SRC, BRC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

(4) Exception to the standards of (A)(2) above:

(a) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, F-2 zone applied;

(2) December 9, 1975, RL-C zone applied, F-2 minimum lot size increased, Ord. 115 & 116;

(3) October 6, 1977, MUA-20 and EFU- 38 zones applied, Ord. 148 & 149;

(4) August 14, 1980, zone change from MUA-20 to EFU-38 for some properties, zone change from EFU-38 to EFU-76 for some properties. Ord. 236 & 238;

(5) February 20, 1990, lot of record definition amended, Ord. 643;

(6) April 5, 1997, EFU zone repealed and replaced with language in compliance with 1993 Oregon Revised Statutes and 1994 Statewide Planning Goal 3 Oregon Administrative Rules for farmland, Ord. 876;

(7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997;

(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 39.4260 may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(D) The following shall not be deemed a Lot of Record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest;

(3) A Mortgage Lot.

(4) An area of land created by court decree.

Applicant: The property consists of three parcels that are 7.67, 22.27, and 54.49 acres under the same ownership (Property ID# R324339, R324300, R501639). The 7.67 acre parcel is aggregated with the other two parcels because it is less than 19 acres. Together, the three parcels aggregate into one single lot of record. The three parcels comprise a 84.43-acre tract. Approximately 11.56 acres of the tract is zoned CFU with the balance of 72.87 acres in EFU. The tract has a mixture of high-value and low-value soils with the majority of the soils classified as low-value, there the subject tract is not high-value farmland soils.

§ 39.6850 DARK SKY LIGHTING STANDARDS.

(A) The purpose of the Dark Sky Lighting Standards in this Section is to protect and promote public health, safety and welfare by preserving the use of exterior lighting for security and the nighttime use and enjoyment of property while minimizing the obtrusive aspects of exterior lighting uses that degrade the nighttime visual environment and negatively impact wildlife and human health.

(B) The following exterior lighting is exempt from the requirements of paragraph (C) of this section:

(1) Lighting lawfully installed prior to October 22, 2016, provided that the building enlargement threshold in paragraph (C) of this section is not exceeded.

(2) Lighting used for safe pedestrian passage, installed at ground level (such as along walkways and stairs), provided that individual lights produce no more than 30 lumens.

(3) Lighting that shines for not more than 90 nights in any calendar year provided that individual lights produce no more than 70 lumens.

(4) Lighting which shines for not more than 60 nights in any calendar year associated with discrete farming practices as defined in ORS 30.930 and agricultural use as defined in OAR 603-095-0010,

except that permanent lighting on buildings, structures or poles associated with farm practices and agricultural use is subject to the requirements of this section. For purposes of this exemption, “discrete farming practices” does not include farm stand or agri-tourism events or activities.

(5) Lighting which shines for not more than 60 nights in any calendar year associated with discrete forest practices as defined by ORS chapter 527 (The Oregon Forest Practices Act), except that permanent lighting on buildings, structures or poles associated with forest practices is subject to the requirements of this section.

(6) Lighting which shines for not more than 60 nights in any calendar year associated with theatrical, television, and performance activities. For purposes of this exemption, theatrical, television, and performance activities do not include farm stand or agri-tourism events or activities.

(7) Lighting in support of work necessary to protect, repair, maintain, or replace existing structures, utility facilities, service connections, roadways, driveways, accessory uses and exterior improvements in response to emergencies pursuant to the provisions of MCC 35.0535, provided that after the emergency has passed, all lighting to remain is subject to the requirements of this section.

(8) Lighting used by a public agency in service of a temporary public need, when such lighting cannot both serve the public need and comply with the standards in paragraph (C) of this section.

(9) Lighting required by a federal, state, or local law or rule, when such lighting cannot comply with both the law or rule and the standards in paragraph (C) of this section.

(10) Lighting used in support of public agency search and rescue and recovery operations.

(11) Traffic control devices in compliance with the Manual on Uniform Traffic Control Devices, when such lighting cannot both serve the public need and comply with the standards in paragraph (C) of this section.

(12) Lighting necessary to meet federal, state or local historic preservation standards when such lighting cannot both meet historic preservation standards and comply with the standards in paragraph (C) of this section.

(13) Underwater lighting.

(14) Lighting of national, state, and local recognized jurisdiction flags pursuant to the United States Flag Code or laws regulating the proper display of jurisdiction flags.

(C) The following standards apply to all new exterior lighting supporting a new, modified, altered, expanded, or replaced use approved through a development permit and to all existing exterior lighting on property that is the subject of a development permit approval for enlargement of a building by more than 400 square feet of ground coverage.

(1) The light source (bulbs, lamps, etc.) must be fully shielded with opaque materials and directed downwards. “Fully shielded” means no light is emitted above the horizontal plane located at the lowest point of the fixture’s shielding. Shielding must permanently attached.

(2) The lighting must be contained within the boundaries of the Lot of Record on which it is located. To satisfy this standard, shielding in addition to the shielding required in paragraph (C)(1) of this section may be required.

Applicant: All new exterior lighting installed on the home will be within the Lot of Record and the fixtures will have a light source fully shielded with opaque materials directed downward which will be permanently attached. Lighting used for safe pedestrian passage, installed at ground level (such as along walkways and stairs), will produce no more than 30 lumens.

§ 39.4210 DEFINITIONS.

As used in MCC 39.4200 through MCC 39.4265, unless otherwise noted, the following terms and their derivations shall have the following meanings:

Applicant: Understood.

§ 39.4225 REVIEW USES.

(C) A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use subject to the standards in MCC 39.4265 (B).

Applicant: This application will be made under Customary Farm Dwelling MCC 39.39.4265(B).

§ 39.4245 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

(A) Except as provided in MCC 39.3070, the minimum lot size for new parcels shall be 80 acres in the EFU base zone.

Applicant: The three combined EFU parcels that make up this tract total 84.43 acre.

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.

Applicant: Understood.

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet Minimum Front Lot Line Length – 50 feet.

Applicant: Proposed home meets all the minimum yard dimension requirements. See plan sheet C-401.

(1) Notwithstanding the Minimum Yard Dimensions, but subject to all other applicable Code provisions, a fence or retaining wall may be located in a Yard, provided that a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.

Applicant: No new fence is planned with the construction of the proposed home.

(2) An Accessory Structure may encroach up to 40 percent into any required Yard subject to the following:

(a) The Yard being modified is not contiguous to a road.

(b) The Accessory Structure does not exceed five feet in height or exceed a footprint of ten square feet, and

(c) The applicant demonstrates the proposal complies with the fire code as administered by the applicable fire service agency.

(3) A Variance is required for any Accessory Structure that encroaches more than 40 percent into any required Yard.

Applicant: No accessory structure is planned with the construction of the proposed home that would be within the setback minimums.

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county "Design and Construction Manual" and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.

Applicant: Understood.

(E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.

Applicant: Understood.

(F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, shall be provided on the Lot of Record.

Applicant: The on-site sewage disposal, storm water/drainage control, water system are all located on the Lot of Record. See Plan C-601, C-602, and C-701.

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

Applicant: N/A

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

Applicant: The on-site storm water/drainage control details with retention pond/water quality facility can be found on plan C-601, C-602, and C-701.

(G) Agricultural structures and equine facilities such as barns, stables, silos, farm equipment sheds, greenhouses or similar structures that do not exceed the maximum height requirement may have a reduced minimum rear yard of less than 30 feet, to a minimum of 10 feet, if:

(1) The structure is located at least 60 feet from any existing dwelling, other than the dwelling(s) on the same tract, where the rear property line is also the rear property line of the adjacent tract, or

(2) The structure is located at least 40 feet from any existing dwelling, other than the dwelling(s) on the same tract, where the rear property line is also the side property line of the adjacent tract.

(3) Placement of an agricultural related structure under these provisions in (F) do not change the minimum yard requirements for future dwellings on adjacent property.

Applicant: N/A

(H) All exterior lighting shall comply with MCC 39.6850.

Applicant: All new exterior lighting installed on the home will be within the Lot of Record and the fixtures will have a light source fully shielded with opaque materials directed downward which will be permanently attached. Lighting used for safe pedestrian passage, installed at ground level (such as along walkways and stairs), will produce no more than 30 lumens.

§ 39.4265 STANDARDS FOR SPECIFIED FARM DWELLINGS.

(B) **Customary Farm Dwelling:** A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use as provided in MCC 39.4225(C) is not allowed unless the following standards are met:

(3) Not high-value farmland soils, capable of producing the median level of annual gross sales. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

Applicant: The tract has a mixture of high-value and low-value soils with the majority of the soils classified as low-value, there the subject tract is not high-value farmland soils.

(a) The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract [the median size of commercial farm and ranch tracts shall be determined pursuant to OAR 660-33-135(3)]; and

Applicant: Within the one mile study area there are five commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales (see Table 1 below). The median size of those five tracts is 38.23 acres. The subject tract is 84.43 acres.

Table 1 - Tract, Size, and Income Capability				
Tax lot Identification	Owners	Acres	Tract Size	Capable of Generating at Least \$10,000 in Annual Gross Sales (Table 2)
1N1W16D-02300	Andrews	0.93244	0.93244	No
1N1W16D-03000	Azhar	4.952087	4.952087	No
1N1W15C-00100	Beovich	93.49746	93.49746	Yes
1N1W16B-00200	Blumenkron	20.4861	20.4861	No
1N1W16D-02900	Bothum	5.757795	5.757795	No
1N1W16B-00800	Burnham	2.18639	114.748083	Yes
1N1W16B-01100	Burnham	36.7665		
1N1W16B-00700	Burnham	33.88826		
1N1W16A-00800	Burnham	24.72772		
1N1W16A-00700	Burnham	15.01256		
1N1W16B-00900	Burnham	2.166653		
1N1W16C-02500	Charlie Potatoes LLC	8.108644		
1N1W16B-01200	Fox	1.273808	1.273808	No
1N1W16D-02700	Hyde	0.975743	0.975743	No
1N1W16D-02100	Kolander	15.96546	15.96546	No
1N1W16D-03200	Malinowski	22.69351	33.029718	Yes
1N1W16D-02600	Malinowski	9.179862		
1N1W16D-02400	Malinowski	1.156346		
1N1W16C-02301	Tri-County Investments	38.23117	38.23117	Yes
1N1W16C-02302	Wolf Creek	4.577849	4.577849	No
1N1W16C-00400	Zahler	16.4763	37.47799	Yes
1N1W16C-00100	Zahler	21.00169		
Median Tract Size of Properties Capable of Meeting the Income Threshold (acres)				38.23117

(b) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subsection (a) of this section; and

Applicant: The median level of annual gross sales of county indicator crops of the commercial farm and/or ranch tracts used in subsection (a) of this section is \$14,942.91 (Table 2 below). The subject tract exceeds the median level of annual gross sales at \$23,397.32.

Tract Name	Acres in Each Land Class				Gross Sales Per Acre by Class				Potential Earning Capability
	Class 2	Class 3	Class 4	Class 6	Class 2	Class 3	Class 4	Class 6	
Andrews	0.01	0.93	0.00	0.00	484.11	397.66	203.89	103.74	\$ 374.66
Azhar	0.00	3.48	1.48	0.00	484.11	397.66	203.89	103.74	\$ 1,685.61
Beovich	0.00	43.81	36.70	12.97	484.11	397.66	203.89	103.74	\$ 26,249.76
Blumenkron	0.00	12.67	7.82	0.00	484.11	397.66	203.89	103.74	\$ 6,632.77
Bothum	0.27	2.38	3.11	0.00	484.11	397.66	203.89	103.74	\$ 1,711.24
Burnham	3.57	73.16	31.75	6.21	484.11	397.66	203.89	103.74	\$ 37,938.81
Charlie Potatoes LLC	2.99	3.51	1.60	0.00	484.11	397.66	203.89	103.74	\$ 3,169.50
Fox	0.70	0.44	0.14	0.00	484.11	397.66	203.89	103.74	\$ 542.39
Hyde	0.00	0.91	0.07	0.00	484.11	397.66	203.89	103.74	\$ 376.14
Kolander	0.00	8.85	7.11	0.00	484.11	397.66	203.89	103.74	\$ 4,968.95
Malinowski	12.13	13.62	7.35	0.00	484.11	397.66	203.89	103.74	\$ 12,786.98
Tri-County Investments	1.01	35.44	1.77	0.00	484.11	397.66	203.89	103.74	\$ 14,942.91
Wolf Creek	0.00	4.58	0.00	0.00	484.11	397.66	203.89	103.74	\$ 1,821.28
Zahler	0.28	30.16	6.96	0.00	484.11	397.66	203.89	103.74	\$ 13,548.05
Subject Tract (Reed)	7.10	30.42	30.10	16.64	484.11	397.66	203.89	103.74	\$ 23,397.32
Median Annual Gross Sales Figures for County Indicator Crops within Study Area									\$ 14,942.91

(c) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subsection (b) of this section; and

Applicant: The subject tract currently has 133 Golden Bovan pasture raised layers which produce approximately 40,000 eggs per year. These eggs are collected, cleaned, inspected, packaged, refrigerated, and then delivered to customers every week. Residential customer pay \$6 per dozen and commercial customers pay \$5 per dozen (when purchasing at least 5 dozen). The farm also currently breeds Boer goats for sale. The eggs along produce over \$16,625 in annual gross sales which exceeds the annual gross sales (\$14,942.91) required in subsection (b) of this section.

(d) The subject lot or parcel on which the dwelling is proposed is not less than ten acres; and

Applicant: The subject tract is approximately 84.43 acres in area, exceeding the 10-acre requirement.

(e) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on the subject tract; and

Applicant: There are currently no dwellings located on the subject tract.

(f) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

Applicant: Scott Reed is principally engaged in the farm use of the land currently tending to the layers and goats. Scott will be one of the family members occupying the proposed dwelling.

(g) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subsection (c) of this section.

Applicant: Multiple farm uses are established on the subject tract currently and have been for years by Scott Reed.

§ 39.5510

USES; SEC PERMIT REQUIRED.

(A) All uses allowed in the base zone are allowed in the SEC when found to satisfy the applicable approval criteria given in such zone and, except as provided in MCC 39.5515, subject to approval of an SEC permit pursuant to this Subpart.

Applicant: Understood.

(B) Any excavation or any removal of materials of archaeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit, regardless of the zoning designation of the site.

Applicant: Understood.

§ 39.5520 APPLICATION FOR SEC PERMIT.

An application for an SEC permit for a use or for the change or alteration of an existing use on land designated SEC, shall address the applicable criteria for approval, under MCC 39.5540 through 39.5860.

(A) An application for an SEC permit shall include the following:

(1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC 39.5540 through 39.5860.

(2) A map of the property showing:

(a) Boundaries, dimensions, and size of the subject parcel;

(b) Location and size of existing and proposed structures;

(c) Contour lines and topographic features such as ravines or ridges;

(d) Proposed fill, grading, site contouring or other landform changes;

(e) Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;

(f) Location and width of existing and proposed roads, driveways, and service corridors.

Applicant: Understood.

§ 39.5860 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT.

(A) In addition to the information required by MCC 39.5520 (A), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed development, with the following information, when such information can be gathered without trespass:

(1) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas;

For the purposes of this section, a forested area is defined as an area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry. A non-forested "cleared" area is defined as an area which does not meet the description of a forested area and which is not being reforested pursuant to a forest management plan.

Applicant: There are no existing forested areas that are within 200 feet of the proposed development that meet the definition detailed in this section. See site plan C-701.

(2) Location of existing and proposed structures;

Applicant: Site plan of existing structures can be found on C-201. Site plan for proposed structures can be found on C-301.

(3) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;

Applicant: The site plans detailing location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels can be found on site plans C-401, C-503, C-601, and C-701.

(4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.

Applicant: No fences are existing or proposed within 200 feet of the subject property.

(B) Development standards:

(1) Where a parcel contains any non-forested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.

Applicant: The proposed single family home is to be located on a cleared portion of the site which was previously used for a single family home.

(2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.

Applicant: The proposed development will occur within 200 feet of NW Springville Road which is public road capable of providing reasonable practical access to the site.

(3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

Applicant: The proposed access road/driveway is approximately 450 feet in length.

(4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:

(a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or

(b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.

Applicant: The proposed driveway aligns directly with a driveway located on the opposite side of NW Springville Road and complies with subsection (b). A site distance study, prepared by a traffic engineer, which supports this driveway location has been previously submitted to the County. The proposed driveway has already received a permit (#80244) from the County for this driveway.

(c) Diagram showing the standards in (a) and (b) above.

Applicant: See site plan C-401.

(d) The standards in this subsection (4) may be modified upon a determination by the County Road Official that the new access road/driveway approach would result in an unsafe traffic situation using the standards in the Multnomah County "Design and Construction Manual," adopted June 20, 2000, (or all updated versions of the manual). Standards to be used by the Road Official from the County manual include Table 2.3.2, Table 2.4.1, and additional referenced sight distance and minimum access spacing standards in the publication A Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO) and the Traffic Engineering Handbook by the Institute of Transportation Engineers (ITE).

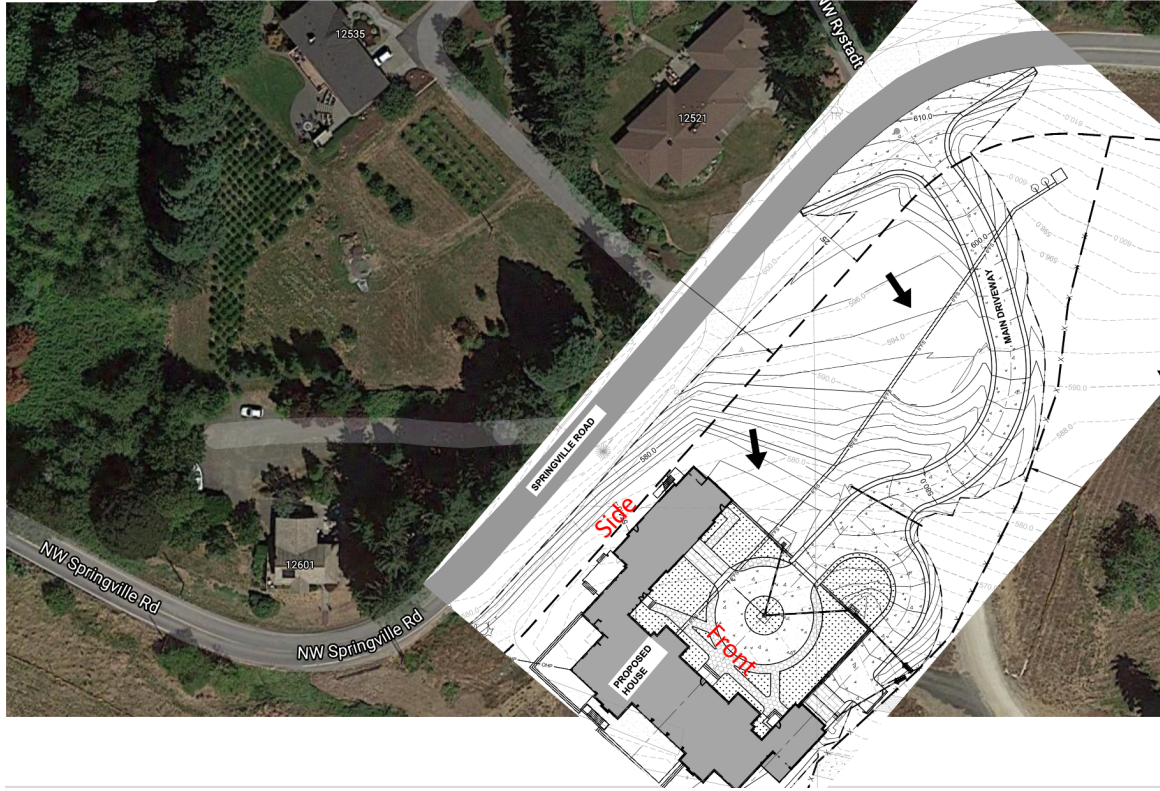
1. The modification shall be the minimum necessary to allow safe access onto the public road.

2. The County Road Official shall provide written findings supporting the modification.

Applicant: The proposed driveway has already received a permit (#80244) from the County for this driveway.

(5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.

Applicant: The development is within 300 feet of three side properties (12601, 12353, 12521 NW Springville Road) with structures and developed areas within 200 feet of the common side property line. See aerial map below.



(6) Fencing within a required setback from a public road shall meet the following criteria:

(a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.

(b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.

(c) Cyclone, woven wire, and chain link fences are prohibited.

(d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.

(e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development. (See Figure 4 below.)

(f) Fencing standards do not apply where needed for security of utility facilities.

Applicant: No new fencing is planned in association with this development.

(7) The nuisance plants in MCC 39.5580 Table 1 shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.

Applicant: The development will not include any of the nuisance plants listed within the County's Nuisance Plant List on the property. Any nuisance plants which are identified on the property will be removed.

(C) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.

Applicant: The proposed development meets the standards of subsection (B), therefore a Wildlife Conservation Plan is not required.

(1) The applicant cannot meet the development standards of subsection (B) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or

(2) The applicant can meet the development standards of subsection (B), but demonstrates that the alternative conservation measures exceed the standards of subsection (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in subsection (B).

(3) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(5), the wildlife conservation plan must demonstrate the following:

(a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.

(b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.

(c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.

(d) That revegetation of existing cleared areas on the property at a 2:1 ratio with newly cleared areas occurs if such cleared areas exist on the property.

(e) That revegetation and enhancement of disturbed stream riparian areas occurs along drainages and streams located on the property.

(4) For a property meeting subsection (C)(1) above, the applicant may utilize the following mitigation measures for additions instead of providing a separate wildlife conservation plan:

(a) Each tree removed to construct the proposed development shall be replaced on a one to one ratio with a six foot tall native tree.

(b) For each 100 square feet of new building area, the property owner shall plant, one, 3-4 foot tall native tree or three native tree seedlings. The trees shall be planted to improve wildlife habitat first within non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas before being placed in forested areas or adjacent to landscaped yards.

(c) Existing fencing located in the front yard adjacent to a public road shall be consistent with subsection (B)(6).

(d) For non-forested "cleared" areas that require nuisance plant removal pursuant to subsection (B)(7), the property owner shall set a specific date for the work to be completed and the area replanted with native vegetation. The time frame must be within two years from the date of the permit.

(5) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(3) of this section, the wildlife conservation plan must demonstrate the following:

(a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.

(b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.

(c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes. Existing fencing located in the front yard adjacent to a public road shall be consistent with subsection (B)(6).

(d) For mitigation areas, all trees, shrubs and ground cover shall be native plants selected from the Metro Native Plant List. An applicant shall meet Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the total developed area (including buildings, pavement, roads, and land designated as a Development Impact Area) on a Lot of Record will be one acre or more, the applicant shall comply with Mitigation Option 2:

1. *Mitigation Option 1.* In this option, the mitigation requirement is calculated based on the number and size of trees that are removed from the development site. Trees that are removed from the development site shall be replaced as shown in the table below. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

2. *Mitigation Option 2.* In this option, the mitigation requirement is calculated based on the size of the disturbance area associated with the development. Native trees and shrubs are required to be planted at a rate of five (5) trees and twenty-five (25) shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals .66, and .66 times five equals 3.3, so three trees must be planted, and .66 times 25 equals 16.5, so 17 shrubs must be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

(e) **Location of mitigation area.** All vegetation shall be planted within the mitigation area located on the same Lot of Record as the development and shall be located within the SEC-h overlay or in an area contiguous to the SEC-h overlay; provided, however, that if the vegetation is planted outside of the SEC-h overlay then the applicant shall preserve the contiguous area by executing a deed restriction, such as a restrictive covenant. (Note: an off-site mitigation option is provided in a streamlined discretionary review process). The mitigation area shall first be located within any existing non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas and last in forested areas or adjacent to landscaped yards.

(f) Prior to development, all work areas shall be flagged, fenced, or otherwise marked to reduce potential damage to habitat outside of the work area. The work area shall remain marked through all phases of development.

(g) Trees shall not be used as anchors for stabilizing construction equipment.

(h) Native soils disturbed during development shall be conserved on the property.

(i) An erosion and sediment control plan shall be prepared in compliance with the Grading and Erosion Control standards set forth in MCC 39.6200 through MCC 39.6235.

(j) **Plant size.** Replacement trees shall be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one gallon size. Shrubs shall be in at least a 1-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.

(k) **Plant spacing.** Trees shall be planted between 8 and 12 feet on- center and shrubs shall be planted between 4 and 5 feet on-center, or clustered in single species groups of no more than four (4) plants, with

each cluster planted between 8 and 10 feet on-center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.

(l) **Plant diversity.** Shrubs shall consist of at least two (2) different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same genus.

(m) **Nuisance plants.** Any nuisance plants listed in MCC 39.5580 Table 1 shall be removed within the mitigation area prior to planting.

(n) **Planting schedule.** The planting date shall occur within one year following the approval of the application.

(o) **Monitoring and reporting.** Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die shall be replaced in kind so that a minimum of 80% of the trees and shrubs planted shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.

(6) For Protected Aggregate and Mineral (PAM) resources within a PAM Overlay, the applicant shall submit a Wildlife Conservation Plan which must comply only with measures identified in the Goal 5 protection program that has been adopted by Multnomah County for the site as part of the program to achieve the goal.

(D) Optional Development Impact Area (DIA). For the purpose of clustering home sites together with related development within the SEC-h overlay, an applicant may choose to designate an area around the home site for future related development and site clearing. For the purposes of establishing the appropriate mitigation for development within the DIA, existing vegetation within the DIA is presumed to be ultimately removed or cleared in the course of any future development within the DIA. Establishment of a DIA is subject to all of the applicable provisions in this section and the following:

(1) The maximum size for a DIA shall be no greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.

(2) Any required mitigation for the DIA site under an approved wildlife conservation plan shall be completed within one year of the final approval of the application.

(3) The DIA shall contain an existing habitable dwelling or approved dwelling site.

(4) No more than one DIA is permitted per Lot of Record.

(5) The DIA can be any shape, but shall be contiguous and shall fit within a circle with a maximum diameter of 400 feet.

(6) For new dwellings that will be located on a Lot of Record that does not currently contain a dwelling, the DIA

should be located within 200 feet of a public road or in the case of properties without road frontage, as close as practicable (accounting for required setbacks and fire safety zones) to the entry point of the vehicular access serving the property.

(7) No part of a DIA may be located in a SEC-s Overlay, mapped wetland, or flood hazard zone.

(8) All development within the DIA is subject to all development criteria in effect for the underlying zone and overlay zones at the time of development. Approval of a DIA does not preclude the applicant's responsibility to obtain all other required approvals.

(9) Once a DIA is approved and all pre-development conditions of approval are met, development within the DIA may commence at any time thereafter provided the applicable approval criteria of this section are the same as the criteria under which the DIA was originally approved. This provision does not waive the approval timeframe and/or expiration of any other permit approvals.

§ 39.5750- CRITERIA FOR APPROVAL OF SEC-S PERMIT –STREAMS.

(A) For purposes of this Section, the following terms and their derivations shall have the meanings provided below:

(1) **Nuisance and invasive non-native plants** – Those plants listed in the latest edition of the Metro Nuisance Plant List and the Prohibited Plant List, and include those plants listed in the latest edition of the State of Oregon Noxious Weed List.

(2) **Protected Streams** -- Those streams which have been evaluated through a Goal 5 ESEE analysis and protected by Ordinance and those streams and wetlands mapped by Metro's Title 13 as Habitat Conservation Areas as modified through the planning process are designated SEC-s on the Multnomah County Zoning Maps.

(3) **Stream Conservation Area** – For the protected streams originally designated by Ordinance, the Stream Conservation Area designated on the zoning maps as SEC-s is an area extending upslope from and perpendicular to the centerline on both sides of a protected stream. The width of the Stream Conservation Area varies and shall be as depicted on the

Multnomah County Zoning Maps and is from the centerline on both sides of the protected stream for the width of the mapped overlay. Any development proposed within a Stream Conservation Area shall be required to demonstrate that the development satisfies the standards of MCC 39.5750 (B) through (E).

(B) Except for the exempt uses listed in MCC 39.5515, no development shall be allowed within a Stream Conservation Area unless approved by the Approval Authority pursuant to the provisions of MCC 39.5750 (C) through (F).

Applicant: No part of the development is planned in any area of the tract which is affected by the County's Stream Conservation Area. The required stream setback for the site is 200 feet and no development is planned within 250 feet of the stream. See site plan C-301 and C-701.

(C) In addition to other SEC Permit submittal requirements, any application to develop in a Stream Conservation Area shall also include:

(1) A site plan drawn to scale showing the Stream Conservation Area boundary, the location of all existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval equivalent to the best available U.S. Geological Survey 7.5' or 15' topographic information;

(2) A detailed description and map of the Stream Conservation Area including that portion to be affected by the proposed activity. This documentation must also include a map of the entire Stream Conservation Area, an assessment of the Stream Conservation Area's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;

(3) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods;

(4) A study of any flood hazard, erosion hazard, and/or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards as required by subsection (E) (5) below;

(5) A detailed Mitigation Plan as described in subsection (D), if required; and

(6) A description of how the proposal meets the approval criteria listed in subsection (D) below.

§ 39.5075 PERMIT REQUIRED.

All persons proposing development, construction, or site clearing (including tree removal) on property located in hazard areas as identified on the Slope Hazard Map, or on lands with average slopes of 25 percent or more shall obtain a Geologic Hazard Permit as required in the GH, unless specifically exempted in MCC 39.5080.

Applicant: The proposed development of the single family home is not in the hazard areas identified on the Slope Hazard Map or on average slopes of 25 percent or more. Therefore, no Geologic Hazard Permit is needed for this development.

§ 39.6235 STORMWATER AND RUN-OFF STANDARDS.

Persons creating new impervious surfaces exceeding 500 square feet shall install a stormwater drainage system. Replacement of existing impervious surfaces does not provide a credit to the 500 square foot threshold except that re-roofing projects on lawfully existing structures that will not require any structural permits do not require stormwater review. The system shall be designed to ensure that the rate of runoff for the 10-year 24-hour storm event is no greater than that which existed prior to development at the property line or point of discharge into a watercourse.

Applicant: The project has hired a Civil Engineer to design a site plan with the capabilities to ensure that the runoff for the 10-year 24-hour storm event is no greater than that which exists prior to development at the property line or point of discharge into a watercourse. The site plan is fully detail on plan sheets G-101, G-103, C-102, C-201, C-301, C-401, C-501, C-503, C-601, C-602, C-603, and C-701.